

**WOODSTOCK PLANNING & ZONING COMMISSION
REGULAR MONTHLY MEETING
THURSDAY, FEBRUARY 16, 2012, 7:30 P.M.
WOODSTOCK TOWN HALL, MEETING ROOM 1**

MINUTES

I. MONTHLY MEETING

- a. Call to Order – Meeting was called to order by Chair Gordon at 7:30 p.m.
(As noted by Chair Gordon, there is a quorum to conduct business.)
- b. Roll Call – Dave Fortin, Jeff Gordon, Delia Fey, Fred Rich, Lynne White, Joseph Adiletta, Dorothy Durst & Syd Blodgett (7:37)
Absent: John Anastasi, Gail Dickinson, Travis Serrine, Dexter Young, Kenneth Goldsmith.

II. CITIZEN'S COMMENTS

Don DiCostanzo (5 New Sweden Rd) states that after his review of the 01/19/2012 meeting minutes, he would like to make a correction. Two letters were submitted during the 12/15/2011 meeting, one from Mr. Jack Carlson, former property owner, and the second from Mr. DiCostanzo. They were unsigned when initially submitted and this was noted on the record, and again during the review of the minutes by Chair Gordon at the 01/19/2012 meeting. Mr. DiCostanzo presents these letters, with signatures, to PZC this evening since the receipt of these signed letters into the planning & zoning office on 12/16/2011 was never mentioned or documented on the record.

III. DESIGNATION OF ALTERNATES - Lynne White is seated
(Syd Blodgett present at 7:37 p.m.)

IV. MINUTES

Meeting Minutes – December 15, 2011

**MOTION TO APPROVE MINUTES OF 01/19/2012 BY FRED RICH,
SECONDED BY LYNNE WHITE.**

- a. Clarification requested by Durst: Page 3 under Public Hearing, last paragraph on page, "The application does not show minimum 150' frontage in error." It will be corrected as follows: "The application was in error regarding the lot frontage not being a minimum of 150 feet."
- b. Clarification requested by Chair Gordon: Page 5, Dewing School House Rd, 1st paragraph. This road will not be paved, according to the application before PZC. The mention of paving in two sections would need to be corrected since it will actually be gravel.
- c. Additional statement requested by Chair Gordon: Page 6, please add the following. "Before members of the public spoke, or any time during their public statements, there was no objection by the applicant."
- d. Page 6, line 9, correct "usual" to usually.
- e. Page 7, line 8 of paragraph following bullets, add "CGS" 13a 55 for clarification.

MOTION CARRIED. Joseph Adiletta abstains.

V. RESCHEDULE PUBLIC HEARING

#SP604-12-12 Paul & Stephanie Charette, Tractors 2 Trimmers – Business expansion
Due to a glitch with the Norwich Bulletin not posting one of the ads in the required time frame, as specified by CT State Statutes, the public hearing cannot be held at this meeting. Legal notices must be published and public hearing rescheduled.

MOTION BY FRED RICH, SECONDED BY DAVE FORTIN TO RESCHEDULE THE PUBLIC HEARING FOR MARCH 15, 2012. MOTION CARRIED UNANIMOUSLY.

VI. NON-RESIDENTIAL ZONING PERMITS

a. P.A.W.S. – Cat shelter at 240 Rte 171

A zoning permit application form has been submitted for review. Applicant is present, along with the property owner. No further questions or comments.

MOTION BY FRED RICH TO APPROVE NON-RESIDENTIAL ZONING PERMIT APPLICATION, SECONDED BY JOSEPH ADILETTA. PZC is still awaiting documentation from the applicant regarding NDDH, NECCOG, and Windham County Animal Control Officers visits to the site and their recommendations. **The following is an overview of what was previously discussed and agreed to on January 19, 2012:**

- No cans and bottles/recyclables stored on premises any longer and this will continue to be ongoing procedure;
- Department of Public Health issues have been resolved;
- Animal control issues have been resolved;
- This will be classified as a service establishment;
- Animal waste will be appropriately dealt with as previously stated;
- There will be no expansion or major renovations that would expand the building.

VII. UNFINISHED BUSINESS

#06-11-12 Chamberlin Family Land Trust, Dewing School House Road – Request to extend existing common driveway

The Commission has received documents from Attorney Hollister and Attorney DeCrescenzo. Chair Gordon states he had a telephone conversation with DeCrescenzo, town counsel 9:30 a.m. on Wed, February 15, 2012 about legal procedure, and there was no discussion on the application. Due to the late receipt of Attorney DeCrescenzo's 02-16-2012 letter, the applicant did not receive a copy to review. It was agreed by PZC that a copy could be provided since it does not appear confidential. Attorney Zakrzewski, representative for abutting property owners, has also requested a copy of this letter. There is no objection.

The legal item Chair Gordon discussed with the attorney is related to the PZC's permission for members of the public to speak at last month's meeting and the applicant's lack of objection stated for the record. And also, the record must continue to remain clear that in order for the public to continue any further commenting, the applicant must state on the record that there are no objections.

Fey states that she received another document from Attorney Zakrzewski but she does not have any additional copies to share. Commission has not had adequate time to review all the documents presented.

Attorney Tim Hollister is present to represent the Chamberlins. He first begins with an apology to the Commission for sending his colleague, Beth Critton to the last meeting. She did not have an opportunity to prepare since Mr. Hollister's recollection of previous discussions was that there was only one final issue to resolve and did not anticipate the issues that arose about the status of Dewing School House Road. Mr. Hollister has sent a letter dated February 13, 2012 to weigh-in on the last meeting discussions. The following points are made in his letter:

- Issue before the Commission is whether the common driveway application meets the subdivision regulations.
- If the neighbors have an issue about who owns Dewing School House Rd and who has a right to use it, this Commission cannot resolve that.
- There are numerous maps that show Dewing School House Road as a boundary of the lots along that road and nowhere has a deed been found that incorporates that road into their land.
- In 1992, this Commission approved a subdivision lot for Gracia where the circumstances are the same with the lot going beyond the town road portion of Dewing School House Rd. Attorney DeCrescenzo also notes in his letter that if there was no issue with approving Gracia, then just as a matter of equal treatment this should be treated in the same manner.
- No argument that the common driveway plan prepared by Mr. Peterson violates any particular section of subdivision regulations.

PZC is discussing how to move forward with the application since they really have not had enough time to review all the legal submissions. 65 day statutory dead line falls on February 18th. Maximum extension would be April 23, 2012.

MOTION BY JOSEPH ADILETTA TO ACCEPT NEW DOCUMENTS AND PLAN TO HAVE COPIES DISTRIBUTED TO COMMISSION MEMBERS FOR REVIEW, ALLOW CITIZENS TO CONTINUE THEIR PRESENTATIONS, AND REQUEST EXTENSION UNTIL MARCH 15, 2012 MEETING UNDER UNFINISHED BUSINESS. SECONDED BY DOROTHY DURST. MOTION CARRIED UNANIMOUSLY.

The applicant is in agreement with the extension and will submit their request for extension in writing immediately.

Attorney Steven Zakrzewski is present and appearing for a group of abutters; Aino Kardestuncer, Dave & Julie Drouin, John & Jane Day, Jennifer & Randy Esposito. Two main points of his letter: Applicant needs to have some standing or interest in the property so it can be properly considered and granted; their claim for right of way would not apply if this road was discontinued prior to 1959.

The application is presented, "to extend an existing common driveway from Dewing School House Road." The abutter's argument is that there is no existing common driveway. Dewing School House Rd ends into a wooded area. It is unpaved and not controlled by a homeowner's association. Photographs of the area are submitted.

Attorney Hollister submits his written request for extension. He responds to Attorney Zakrzewski's claim that if the applicant does not have ownership or easement right, as they allege, then this is a title claim and would need to be pursued in a court of law. His client owns a 19- acre lot and has a right to get to the lot. He further responds that CGS 13a-55 that was discussed at last month's meeting is not the basis that they would proceed on in court for this title issue. There is lengthy discussion as follows: PZC is discussing approving the construction of the roadway and not about the abutters having right to it. Additionally, if the abutters win in court, the PZC approval would be null and void. There is a chance that the road was not truly discontinued and therefore would be a public road and PZC will have no jurisdiction to approve private development on a public road. (This is one of the arguments).

How liable is the town for legal action against them if they make a decision to allow the applicant to go forward in any manner? On the other side of the scale, balancing the rights of the applicant, how far can PZC tip in this direction?

Is there a great risk on the part of the town by approving this? Mr. Hollister stated there is history that they were trying to establish Dewing School House Road as a town road four years ago. Attorney DeCrescenzo provided a letter stating they did not have evidence to show it was a town road. They gave up and went in a new direction. Hollister is not in favor of revisiting and veering back in that direction since it ignores where they have been already. Chair Gordon disputes that summary and states getting Attorney DeCrescenzo to make a decision on whether this is a discontinued road or not would be the proper direction.

It is decided that PZC needs more clarification from the town attorney on whether this is actually a discontinued road and if the evidence supports that. What is the responsibility of the Commission to allow the use on contested property? How can they approve something when the ownership is not there? What is the responsibility of the zoning commission in deciding on an application that is being applied to with land of disputed ownership? If DeCrescenzo comes back and says there is no responsibility, then that changes how they can look at it. And if this needs to be sorted out in the courts, then that would have to be done before the Commission decides.

The last paragraph of Attorney DeCrescenzo's letter is read for the record: He recommends that the application be processed and considered by the commission in the same manner as the Gracia application in 1992. Attorney DeCrescenzo should clarify that statement. Durst recommends reviewing of minutes from that approval and the application to determine what that way was back then with a different commission. Fey will provide the files and the regulations that were in effect at that time.

John Day, current owner of Gracia property, addresses the Commission. He disputes Attorney DeCrescenzo's characterization that the Gracia subdivision is similar to this request from the Chamberlins. He states the Gracias had two means of access to the property, one along their property line that abutted Dewing School Road. They could

have extended the driveway off of Old Turnpike Road. Fey responds that the approval was for access off of Dewing School House Road.

From last meeting, Commission had requested title history of the land. Applicant's attorney determined it was not necessary. Our town engineer has not reviewed the plan. John Navarro worked with their engineer, Mr. Peterson, and submitted his comments. There was some previous concern about water runoff to the north side. Should our town engineer review the plan?

Further questions from public:

Mrs. Kardestuncer, abutting property owner, has questions about the road on the back side of her property and what happened when a stone wall blocked access for a rear lot. She also talks about a discussion she had with Gordon Chamberlin, applicant's father, about access to this 19.5 acre parcel and they were told it would be used as a hunting preserve and he believed he could gain access by walking across other owner's property if necessary.

PZC has further discussion on sequence of action, whether they can even decide before the legal issues are resolved, and if the exact nature of the application, itself can be addressed. Julie Drouin explains the photographs of the end of the turnaround. It shows the part of Dewing School House where new proposed driveway for Chamberlin is to go as being 10 feet wide. It is noted by Durst that the embankment on either side of the roadway shown in the photos would have to be cut into in order to hit the width the applicant is proposing.

It is pointed out that the approved subdivision from 1991 has considered Dewing School House to be a common driveway. Clarification from the town attorney is required before any decision can be made.

VIII. PRELIMINARY DISCUSSION

Woodstock Academy Student Housing – Boarding house @ 599 Route 169

Chair Gordon states for the record, on the advice of town counsel, public discussion will not be allowed on this item since Woodstock Academy is currently working on presenting an application for a text amendment and a public hearing will be required at that time. Attorney Cotnoir, 163 Providence St., Putnam is representing WA. Also present are headmaster, Mr. Kim Caron and Assistant Principal, Amy Favreau. This request for preliminary discussion is in response to a Notice of Violation that was issued on February 3, 2012.

Kim Caron, Headmaster of WA talks about the international program, a general overview, and why it is important to the academy. Enrollment management plan is explained. Commission confirms total number of students and WA prior agreement to not allow any additional students in these houses until this issue is resolved. Their primary intention is to supplement the culture and revenue with international students in Woodstock. They do not have any interest in changing the culture or nature of the town by buying up rows of houses on the hill for dormitory use. Durst clarifies the history of purchased properties for student use. Attorney Cotnoir is working with WA to

create this text amendment and it will be submitted at the next regular meeting. He goes through the outline of this submission which he describes as the easiest and most protected way to set up the regulations. He is looking for feedback from the Commission. Richard Baron, Fire Marshal is present and responds positively to preliminary information as presented. He recommends changing the inspection schedule just prior to opening or shortly thereafter rather than in August at a time when cleaning is still occurring. Baron recommends mirroring the current codes (health, fire, building) already in place for CT into the PZC regulations so everyone works under the same level of requirements. There is discussion on student housing / foster children in a private home and how this should be defined. Correspondence from Jock McClellan was received by PZC. A copy will be given to Attorney Cotnoir. Attorney Cotnoir agreed to submit his proposed final draft of the amendment in plenty of time before the meeting to allow adequate time for review by PZC.

**Since the time is after 11:00, PZC cannot handle any further business.
MOTION TO TABLE ITEMS IX - XVI. BY RICH, SECONDED BY
FORTIN. MOTION CARRIED UNANIMOUSLY.**

IX. NEW BUSINESS

#2162012 Zoning Text Amendment – propose deletion of appendix G: Off-site directional signs.

X. ZEO REPORT

XI. BYLAWS

X11. BUDGET REVIEW AND BILLS

Bill from Design Professionals, engineering review for \$510 for Special Permit modification for Woodstock Academy

**MOTION BY RICH TO PAY BILL, SECONDED BY ADILETTA.
MOTION CARRIED UNANIMOUSLY.**

XIII. CITIZEN'S COMMENTS

XIV. CORRESPONDENCE

XV. MINUTES OF OTHER BOARDS AND COMMISSIONS

XVI. OTHER

XV. ADJOURNMENT

**MOTION TO ADJOURN BY RICH, SECONDED BY FORTIN AT
11:05 P.M. MOTION CARRIED UNANIMOUSLY.**

Respectfully Submitted,

Tina M. Lajoie, Clerk
Planning & Zoning Commission

DISCLAIMER:

These minutes have not yet been approved by the Planning & Zoning Commission. Please refer to next month's minutes for approval/amendments. Please note that the audio recording is the legal record of the meeting.